IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA STATESVILLE DIVISION 5:06cv8

UNITED STATES OF AMERICA,)
Plaintiff,)
Vs.	ORDER
REAL PROPERTY LOCATED AT 1482 OLD NORTH ROAD,))
LENOIR, NORTH CAROLINA,)
Defendant.)

THIS MATTER is before the court on the government's Motion for Leave to Conduct Discovery. In substance, plaintiff seeks leave of court to immediately take the deposition of the claimant in the event the district court denies plaintiff's Motion to Dismiss. Such request is not yet "ripe" inasmuch as it seeks relief which it may or may not need in the future based on an event that may or may not come to pass.

Basically, the government has asked that "if the Court denies the government's June 1 motion, the government requests that the Court's order include authorization for the government to take claimant's deposition immediately thereafter." Motion for Leave, at 3. For cause, the government has shown that a deposition before entry of the Pretrial Order may lead to early resolution of this case. The government argues that if it is convinced that the claimant is telling the truth, the case can be settled quickly. <u>Id.</u> Further, the government argues that first conducting the conference required by Rule 26(f) is unworkable because the claimant is proceeding *pro se*.

Inasmuch as this motion has been referred to the undersigned for disposition, it must be denied without prejudice in that it seeks future, conditional relief. In the event the district court denies the government's dispositive motion, the government may file a new motion, which the undersigned will consider without awaiting a responsive brief inasmuch as such response period has previously gone without response. The court finds that the relief sought would be appropriate if and when it is needed. The parties are advised that they may, by agreement, conduct a deposition or any other discovery at any time, albeit without court sanction. Claimant is advised that she may wish to consider voluntarily appearing for such a deposition if in fact the claim she has made is truthful.

ORDER

IT IS, THEREFORE, ORDERED that the government's Motion for Leave to Conduct Discovery (#13) is **DENIED** without prejudice.

Signed: September 15, 2006

Dennis L. Howell

United States Magistrate Judge

ennis & Hawell